

REMARKS

Claims 1-11 were originally filed and subsequently canceled without prejudice or disclaimer in a Preliminary Amendment in favor of claims 12-22. Claims 12-22 were thus previously pending in this application.

Claims 12, 19, 20, and 22 are currently amended without adding new matter. Dependent claims 19, 20, and 22 have been rewritten in independent format and contain all the limitations of the independent claims from which they depend. The subject matter of claim 18 was also incorporated into independent claims 12 and 22. Accordingly claim 18 is cancelled without prejudice or disclaimer. No new claims have been added. No new matter has been added. As a result claims 12-17 and 19-22 are pending, with claims 12, 19, 20, and 22 being independent claims.

Rejections under 35 U.S.C. § 112

Claim 22 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because it allegedly is not clear as to whether the limitations of claim 12 are included therein. Claim 22 was also rejected under 35 U.S.C. § 112, fourth paragraph as failing to limit the scope of claim 12. Applicants disagree.

Nonetheless, claim 22 has been amended to clarify that the subject matter thereof is directed to a motor vehicle comprising the recited structural element.

Accordingly, reconsideration and withdrawal of the rejections of claim 22 under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 12-18, and 21-22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the disclosure of Kawasaki in U.S. Patent No. 5,492,388, in view of the disclosures of any one of Minnich, in U.S. Patent No. 6,811,363 (hereinafter “Minnich” or “ref. A”), Harris et al., in U.S. Patent No. 4,830,557 (hereinafter “Harris” or “ref. B”), O’Toole, in U.S. Patent No. 5,193,868 (hereinafter “O’Toole” or “ref. C”), Baglin, in U.S. Patent No. 4,826,374 (hereinafter

“Baglin” or “ref. D”), Poupiter, in U.S. Patent No. 4,863,327 (hereinafter “Poupiter” or “ref. E”), Peterson, in U.S. Patent No. 4,875,816 (hereinafter “Peterson” or “ref. F”), Cornea et al., in U.S. Patent No. 5,558,369, (hereinafter “Cornea” or “ref. G”), Moss et al., in U.S. Patent No. 5,605,353 (hereinafter “Moss” or “ref. H”), Norkus et al., in U.S. Patent No. 6,146,071 (hereinafter “Norkus” or “ref. I”), and Biesinger et al. in U.S. Patent No. 6,062,602 (hereinafter “Biesinger”).

Kawasaki discloses a structure for a vehicle having a steering member 25 extending laterally between left and right side members. Kawasaki also discloses an adjusting means 46 having a stationary screw member 44 fixed on end bracket 40b of the steering member, and a movable adjusting screw member 45. (Kawasaki, col. 3, lines 54-67.) In Kawasaki, a gap d between the steering member 25 and a pillar is eliminated by inserting a wrench 48 through an access hole 30 and a fastener hole 29 to torque adjustable nut 45 increasing the length of adjusting means 46 and causing the adjustable nut 45 to abut the pillar. (Kawasaki, col. 5, lines 37-55.) After eliminating gap d, the wrench 48 is removed and fastening bolt 49 is inserted. (Kawasaki, col. 5, lines 56-61.)

Kawasaki fails to disclose, teach or suggest a spacer device for co-operating with the screw to bear against the end of the cross-member and against the upright along the director line of the cross-member as recited in amended independent claims 12 and 22. In Kawasaki, the adjusting means 46 is lengthened eliminating gap d independently of, and prior to, contact with bolt 49. In contrast to Kawasaki, the spacer device of the present invention co-operates with the screw to bear against the end of the cross-member and against the upright along the director line of the cross-member.

Minnich, Harris, O'Toole, Baglin, Poupiter, Peterson, Cornea, Moss, Norkus, and Biesinger (hereinafter “the secondary references”), individually or in combination, fail to cure this deficiency of Kawasaki. The secondary references disclose a floating nut assembly and are silent as to a spacer device co-operating with the screw to bear against the end of the cross-member and against the upright along the director line of the cross-member as recited in independent claims 12 and 22. As such, the claimed invention is patentable over the proposed combination because no valid prima facie case of obviousness has been established..

Moreover, one skilled in the art would not have combined any of the secondary references as asserted by the Examiner. Because bolt 49 of Kawasaki is inserted into stationary

screw 44 affixed to end bracket 40b, one skilled in the art would not have been motivated to combine the floating nut of these secondary references with the adjusting means of Kawasaki. One skilled in the art would have understood that screwing bolt 49 of Kawasaki into stationary screw 44 would not result in any repositioning of the bolt 49 in fastener hole 41 of the end bracket 40b, because the internal hole of stationary screw 44 of Kawasaki is permanently aligned with fastener hole 41. In the present invention, the screw operates with the spacer 12 moving a portion of the spacer first into contact with plate 16 having orifice 22. Because orifice 22 has a diameter greater than the diameter of shank 24 of the screw, the screw self aligns during insertion. Because Kawasaki pre-aligns the screw with the end bracket 40b, there would be no need for the floating nut of the secondary references. Therefore, independent claims 12 and 22 are patentable over the cited references, either alone or in combination. Dependent claims 13-17 and 21 depend directly or indirectly from claim 12 and are patentable for at least the same reason. Accordingly, reconsideration and withdrawal of this rejection is, therefore, respectfully requested.

Allowable Subject Matter

Claims 19-20 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this Response, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this Response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,
Philippe Arroupe *et al.*, Applicants

By: /lisa e. winsor/
Lisa E. Winsor, Reg. No. 44,405
LOWRIE, LANDO & ANASTASI, LLP
One Main Street
Cambridge, Massachusetts 02142
United States of America
Telephone: 617-395-7000
Facsimile: 617-395-7070